



STATE BOARD OF EQUALIZATION

450 N Street, MIC: 64, Sacramento, California
(P. O. Box 942879, Sacramento, CA 94279-0001)

Telephone: (916) 445-4982
FAX: (916) 323-8765

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No. 94/32

June 2, 1994

TO COUNTY ASSESSORS:

ENROLLMENT OF AN ASSESSMENT

A recent question concerning the enrollment of a supplemental assessment caused us to review the issue of enrollment of assessments in general. The question was: when does placement on the supplemental roll actually occur for purposes of applying the statute of limitations under Section 75.11 of the Revenue and Taxation Code?¹ Our legal staff had occasion to analyze this issue. This letter contains relevant parts of their analysis and is expanded to include discussion on enrollment of regular roll assessments and escape assessments.

SUPPLEMENTAL ASSESSMENT

Chapter 663 of the Statutes of 1992 (Assembly Bill 3280) amended Section 75.11 to establish time limits for the enrollment of supplemental assessments. It became effective as an urgency measure on September 14, 1992. (Our advice on this statute is contained in letter to assessors 93/03, dated January 7, 1993.)

Chapter 663 provided that under subdivision (d) of Section 75.11, no supplemental assessment shall be valid or have any force or effect unless it is "placed on the supplemental roll" on or before the dates specified. However, supplemental assessments made prior to September 14, 1992 are not affected by these provisions. Thus, as we stated in letter to assessors 93/03, the statutory time limits apply only to supplemental assessments made on or after September 14, 1992.

The specific language in subdivision (d) of Section 75.11 applies the statute of limitations period as follows:

¹All statutory references are to the Revenue and Taxation Code unless otherwise indicated.

"(d) No supplemental assessment authorized by this section shall be valid, or have any force or effect, unless it is placed on the supplemental roll on or before the applicable date specified in paragraph (1), (2), or (3), . . ." (Emphasis added).

The statute is silent, however, as to when a supplemental assessment is actually "placed on the supplemental roll." Accordingly, it is necessary to review other statutes, as well as regulations, authoritative advice, and reasonable practices to determine the meaning of "placed" on the roll.

Section 75.40 requires the assessor to transmit the supplemental assessment to the auditor, after the period for claiming exemptions has expired. Although it specifies the information to be included in the supplemental assessment, Section 75.40 does not indicate that such information is the actual supplemental "roll prepared." Section 75.42 requires that the information transmitted from the assessor to the auditor, together with tax extensions, "shall be enrolled on the supplemental roll." Section 75.42 reads:

"The information transmitted to the auditor by the assessor, together with the extended taxes due, or extension of refund, shall be enrolled on the supplemental roll." (Emphasis added)

The assessment function of making the supplemental assessment roll consists of on-going procedures. The assessor discovers and identifies a property subject to supplemental assessment (i.e., new construction or a change in ownership). The assessor values the property, calculates the value change, and enters the information into some type of supplemental roll database.² The assessor notifies the assessee of the amount of pending supplemental assessment and of equalization appeal rights. The assessor allows or disallows exemptions claimed after notification. After the period for claiming exemption has expired and exemptions have been allowed or disallowed, the assessor transmits the assessment to the county auditor. The county auditor then extends the taxes, and a tax bill is prepared for collection by the tax collector (Section 75.40).

In the case giving rise to our review of this issue, the assessor had entered the supplemental assessment information for several properties into the database, notified the taxpayers, processed the exemption claims, and electronically transmitted the assessments to the county auditor, all before any statute of limitations had expired. However, the county auditor's data processing system could not accept the assessor's transmissions because of incompatibilities between the assessor's and auditor's data processing programs. By the time the data processing problems were resolved and the auditor was able to extend the taxes, the statute of limitations for placing the assessments on the supplemental roll had expired. Some of the taxpayers questioned whether the assessments were timely.

Here are possible interpretations that we considered for determining which event constituted "placed on the supplemental roll" for purposes of a supplemental assessment.

²Most if not all assessors use some type of computer program as the database. There is no statutory or commonly-accepted definition or form of a supplemental roll database. The existence, contents, and processing mechanisms of such a database are for the internal convenience of the assessor's office and are unregulated except to the extent they contain confidential information that is not available to the public.

1. When the assessment information was loaded into the assessor's supplemental roll data base, the assessments were committed to the roll process. This is the same as "placed on the supplemental roll." (Also, it is argued that notification to the assessee of the amounts of pending supplemental assessments is further evidence the assessments had been "placed" on the roll.)
2. The assessments were placed on the supplemental roll when the assessor first transmitted the assessments to the auditor.
3. The assessments were not placed on the supplemental roll until they were transmitted in a manner the auditor's data processing system could accept. (This date was after the statute of limitations had expired.)

Although the question is not free of all doubt, we believe the second meaning is correct for the following reasons.

First, we reject any argument that the assessor's data base is any kind of assessment roll. The assessor's data base is a working tool for the assessor. It is not defined by any statute, regulation, or common assessment practice. Although assessment information is entered into the data base and a notice has been mailed to the assessee, the assessor may unilaterally change any part of the information, grant exemptions, revise values, etc. The data base is an important part of the process of producing an assessment roll. However, it is not itself an assessment roll and entry of data on it does not constitute "placing" an assessment on the supplemental roll or any other assessment roll.

Assessors' Handbook Section 271, Assessment Roll Procedures, states on page 40:

"The assessment is entered when the information is committed to the roll process, not when the roll is printed."

The words "committed to the roll process" are not explained and, understandably, are subject to different interpretations. Although some may argue that an assessment is "committed" upon entry into the assessor's data base or upon delivery of an assessment notice to the assessee, the more reasonable explanation is that "committed" means delivery to the auditor. Note that it is common for assessments (and entire assessment rolls) to be printed by the assessor prior to delivery to the auditor. Until such delivery, the assessor may unilaterally cancel, increase, decrease, or make other changes to any assessment. Accordingly, an assessment is not committed to the roll process merely because a proposed assessment is entered into the assessor's data base, printed, and a notice mailed to the assessee. The "roll process" is not just making the assessment, it includes making the assessment, extending the taxes, and collecting the taxes. The assessment is "committed to the roll process" when it is delivered to the auditor because after such delivery the assessor may not make unilateral changes to the assessment.

Second, the statutory scheme for supplemental assessments assign to the assessor all of the responsibilities required to produce a valid assessment, e.g., discovery, computation of value,

notice, allowance or disallowance of exemptions, and delivery of the supplemental assessment roll to the auditor. If the taxpayer subsequently questions any aspect of the assessment (for example, the value, date, property ownership, eligibility for exemption, or timing), the assessor is the only county official having documents to verify the information. In addition, the assessor is the only official capable of making a correction in the event that the assessment records disclose a mistake.

The auditor possesses none of the documents forming the basis of the supplemental assessment and is, therefore, unable to control or track the timing for the assessment. From the practical perspective, the assessor controls the entire network for producing the supplemental roll and therefore shoulders the total responsibility for meeting the time limitations.

Third, the fact that the auditor retains the same supplemental roll number and date on the assessment assigned by the assessor indicates that the assessor's entry of assessment information should be construed as "placement" while the auditor's entry of the extended taxes/refunds should be viewed as "enrollment" of an assessment on the supplemental roll. Since the assessor and auditor each are responsible for specific acts relating to the administration and enforcement of supplemental assessments, we believe that the actual practices which incorporate their interpretation and application of these provisions should be given great weight.

Fourth, since there is no question that the provisions of subdivision (c) of Section 75.11 delegate to the assessor exclusively the authority to extend the statute of limitations by negotiating an agreement with the taxpayer, the assessor must similarly have the authority to determine when the assessment is placed on the roll for statute of limitations purposes. It is certainly logical to presume that the official charged with the responsibility for negotiating with the taxpayer for an extended period of time, if an extension is necessary, under Section 75.11, subdivision (d), is by implication the same official who has the concomitant authority to track and enforce the time involved for any supplemental assessment; and must, therefore, be the same official responsible for placement on the supplemental roll within the statutory period under subdivision (d) of Section 75.11. The assessor is the only official clearly in this position of responsibility.

Therefore, it is the assessor who "places" the assessment on the supplemental roll on the date of its delivery to the auditor, since this is the last date entered on that supplemental roll. This is the only date which is recorded and traceable for purposes of determining after the fact when the assessment was placed on the roll.

Finally, we do not find sufficient reasons for concluding that placement on the supplemental roll occurs when the auditor extends the taxes/refunds. It is illogical to assume that the Legislature would delegate enforcement of the statute of limitations to the auditor when the entire statutory scheme seems to depend on the assessor's functions. Sound tax administration policy suggests generally that the Legislature's intent for the enforcement of the statute of limitations should be consistent, rather than inconsistent, with the assessor's and auditor's existing duties in regard to the supplemental roll, and suggests specifically that the auditor should not be liable for the extended deadlines negotiated and established between the assessor and the taxpayer.

Ultimately, the final determination of when placement on the supplemental roll occurs for statute of limitations purposes is a question of fact based on actual assessment practices in each county office. Although not completely free of doubt, it is our opinion that the term "placed on the supplemental roll" in Section 75.11 means delivery of the completed assessment by the assessor to the auditor, and not the extension of taxes by the auditor.

To the best of our knowledge, there is no statute, regulation, or precedent that deals with the effect of a delay in extending taxes because of incompatibilities between an assessor's and auditor's computer systems. Lacking any contrary directive in law, we believe the assessment is placed on the roll when the assessor delivers to the auditor the information required by law. For supplemental assessments, such information is specified by Section 75.40, which requires the assessor to deliver to the auditor the name and address of the assessee, the parcel number or legal description of the property, the tax rate area, the new base year(s) value(s) of the land and/or improvements, the value of the property on the current roll and/or the roll being prepared, the exemption if applicable, the net supplemental assessment after exemption, and the date of the change of ownership or completion of new construction. When the assessor delivers the foregoing information to the auditor, the assessment has been placed on the supplemental roll. Mechanical problems that delay subsequent processes, such as tax extension, billing, or collection, are problems that occur **after** placement of the assessment on the roll, notwithstanding that the assessor may be involved in resolution of the problems.

REGULAR ROLL

In light of the above discussion of a supplemental assessment "placed on the supplemental roll," we can draw a similar conclusion on enrollment of an assessment for the regular (Section 601) roll. The earlier discussion differentiated between "placed on the supplemental roll" and "enrolled on the supplemental roll," but we believe this difference is only for the supplemental roll. For assessment purposes other than the supplemental roll, enrollment and placement are one and the same. When the assessor turns the assessment over to the auditor and can no longer unilaterally change the assessment, then the assessment is enrolled.

The assessor discovers and identifies all property in the county subject to county assessment. The assessor values those properties; enters the information into the assessment roll database; and notifies the assessee of the assessment (Section 619) and equalization appeal rights. The assessor must complete the roll on or before July 1 of each year (Section 616) and immediately deliver the roll to the auditor (Section 617) with an affidavit stating that the assessor has completed all duties according to the statutory provisions.

However, it is not clear as to when enrollment occurs for assessments on the regular roll. Does enrollment occur when the assessor enters the assessment on the roll or when the assessor transmits the roll to the auditor on July 1?

During the fiscal year (July 1 to the following July 1), the assessor is engaged in discovering and identifying properties, valuing properties, updating the assessment roll database, and notifying assessee of assessment changes. At any time prior to delivery of the roll to the auditor, the

assessor could change any assessment in the data base. However, once the assessor completes the roll and delivers it to the auditor, the assessor has completed all the duties prescribed by the statutory provisions.

It is also at this point that no further changes can be made in the assessment. This is the date that the assessor completes his/her statutory duties, i.e., discovering the property, valuing the property, and transmitting the assessments to the auditor.

Therefore, in our opinion, enrollment occurs when the assessor transmits the roll to the auditor and no longer has any control over it. It is at this point that the assessment is considered enrolled and the assessee has a right to appeal the enrolled assessment.

ESCAPE ASSESSMENT

An escape assessment is an assessment made for property that should have been but was not on the roll at the time the assessor turned over that roll to the auditor. Upon discovery of property escaping assessment, the assessor is required to appraise the property and enroll the assessment on the current assessment roll.

Section 534 provides for the enrollment of escape assessments. It reads in relevant part:

"No such assessment shall be effective for any purposes, including its review, equalization and adjustment by the Board of Equalization, until the assessee has been notified thereof personally or by United States mail at his address as contained in the official records of the county assessor. For purposes of Section 532, such assessment shall be deemed made on the date on which it is entered on the roll pursuant to Section 533 if the assessee is notified of the assessment within 60 days after the statute of limitations or the placing of the escape assessment on the assessment roll; otherwise, such assessment shall be deemed made only on the date the assessee is so notified. Receipt of the assessee of a tax bill based on such assessment shall suffice as such notice."

Section 534 distinguishes between (1) the process of entering or placing an escape assessment on the roll and (2) the making of an escape assessment. Consistent with our analyses for other types of assessments, we believe an assessment is entered or placed on the roll when the assessor delivers the required information to the auditor. However, the assessment is not "made" on that date **unless** the assessee is notified of the assessment within 60 days after (1) the statute of limitations expires or (2) the assessment is entered or placed on the roll. If the assessee is not notified as provided above, the assessment is "made" on the date the assessee is notified. If a separate notice is never sent to the taxpayer, the tax bill serves as the notice and the assessment is made on the date the assessee **receives** the tax bill. Thus, for purposes of the statute of limitations, an escape assessment requires both timely delivery of the assessment to the auditor and timely notification of the assessment to the assessee.³

³The validity of supplemental and regular (601) roll assessments are not affected by failure of the assessor to notify the assessee. See Revenue and Taxation Code Sections 75.32 and 619.

CONCLUSION

In summary, there are slightly different provisions for making assessments depending on whether the assessment is a regular annual ("Section 601 roll") assessment, a supplemental assessment, or an escape assessment. However, all assessments begin when the assessor delivers the required information to the county auditor. Entry of assessment information into the assessor's data system, where the assessor still has total control over the data, does not constitute making an assessment.

In the case of the Section 601 roll, the assessment is made when the information is delivered to the auditor.

In the case of a supplemental assessment, the assessment is "placed" on the roll when the information is delivered to the auditor. Although a supplemental assessment is not "enrolled" until the auditor extends the taxes, the statute of limitations applies to placement on the roll, not enrollment.

In the case of an escape assessment, the assessment is made when the information is delivered to the auditor provided the assessment notice is sent timely. Otherwise, the assessment is not made until the assessee receives the tax bill.

We hope the information in this letter is helpful. The issues presented herein are complex, and we must emphasize that our conclusions are advisory and are not binding. If you have questions or comments concerning the statute of limitations, please contact either our Business Property Technical Services Section or Real Property Technical Services Section at the above address or (916) 445-4982.

Sincerely,

A handwritten signature in black ink that reads "Verne Walton". The signature is written in a cursive, flowing style.

Verne Walton, Chief
Assessment Standards Division